

30945. Misbranding of butter. U. S. v. Swift & Co. Plea of nolo contendere. Fine, \$125. (F. & D. No. 42689. Sample No. 50206-D.)

This product was short weight.

On August 19, 1939, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation having a place of business at West Point, Miss., alleging shipment by said corporation in violation of the Food and Drugs Act on or about December 1, 1938, from the State of Mississippi into the State of Alabama of a quantity of butter which was misbranded. The article was labeled in part: "Swift's Brookfield Butter."

The article was alleged to be misbranded in that the statements "1 lb. Net Weight" and "32 Lbs. Net," borne on the retail cartons and shipping cartons, respectively, were false and misleading and tended to deceive and mislead purchasers, since the said cartons contained less than the amount declared. Misbranding was alleged further in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On October 10, 1939, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$125.

GROVER B. HILL, *Acting Secretary of Agriculture.*

30946. Adulteration and misbranding of horseradish. U. S. v. Benjamin Cohen, George Iger, and Max Shapiro (Arrow Horseradish Co. (Regis Foods Co., successors)). Pleas of guilty. Fine, \$1,050. (F. & D. No. 42653. Sample Nos. 3246-D, 3247-D, 12739-D, 12740-D, 44040-D, 44044-D.)

This product was a mixture of horseradish and parsnip. The containers of four of the shipments failed to bear a proper statement of the quantity of contents, two of the said shipments being unlabeled and two bearing the statement "Contents 6 Oz. Avd.," with the figure "5" written over the "6" with pencil.

On September 26, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Benjamin Cohen, George Iger, and Max Shapiro, trading as Arrow Horseradish Co. (Regis Foods Co., successors), alleging shipment by said defendants in violation of the Food and Drugs Act, within the period from on or about May 11 to on or about June 14, 1938 from the State of New York into the State of New Jersey, of quantities of horseradish which was adulterated and misbranded. The information alleged further that on or about October 6 and 11, 1938, the said defendants sold certain quantities of horseradish under a guaranty that it was not adulterated or misbranded in violation of the Food and Drugs Act; that on or about October 7 and 12, 1938, the said horseradish, in the identical condition as when so sold and guaranteed, was shipped from the State of New York into the State of New Jersey by the purchaser thereof and that the said article was adulterated and misbranded in violation of said act. Certain shipments were labeled in part: (Bottle) "Arrow Brand Pure Horseradish." Others were labeled in part: "Dwarf Brand Pure Horseradish * * * Bloch & Guggenheimer, Inc." The bottles in two of the shipments were unlabeled.

Adulteration was alleged with respect to all lots in that a mixture of horseradish and parsnip had been substituted for horseradish. The labeled shipments were alleged to be adulterated further in that parsnip had been mixed and packed with the article so as to reduce or lower its quality and strength; and in that parsnip had been mixed with it so as to simulate the appearance of a product consisting wholly of horseradish, and in a manner whereby its inferiority was concealed.

The labeled lots were alleged to be misbranded in that the statement "Horseradish," borne on the bottle label, was false and misleading and tended to deceive and mislead the purchaser. The said lots were alleged to be misbranded further in that they consisted of mixtures of horseradish and parsnips prepared in imitation of horseradish and were offered for sale and sold under the distinctive name of another article, horseradish. The product in the two unlabeled lots and in the two lots in which the net weight had been overmarked were alleged to be misbranded in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On September 29, 1939, pleas of guilty were entered by the defendants, and the court imposed a fine of \$350 on each, making a total of \$1,050.

GROVER B. HILL, *Acting Secretary of Agriculture.*